

**Howell, Sandee**

**From:** Arnold, Bradley  
**Sent:** Monday, December 14, 2009 1:54 PM  
**To:** @County Commissioners  
**Cc:** Howell, Sandee; Douglas, Jessica  
**Subject:** FW: IDA Lease: Year to year tenancy

Gentlemen,

Based on Derrill's review of the lease, I will have on the January BOCC meeting agenda to terminate the lease with the IDA effective September 30, 2010.

Bradley

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**From:** Derrill McAteer [mailto:Derrill@hoganlawfirm.com]  
**Sent:** Monday, December 14, 2009 1:50 PM  
**To:** Arnold, Bradley  
**Subject:** IDA Lease: Year to year tenancy

Brad,

Given the vague nature of the termination clause in the Public Service Lease between the County and IDA dated 12/14/2004, which expired and converted to annual renewals on September 30, 2005, the year to year termination clause of Section 83.03(1), Florida Statutes applies. As the County (to my knowledge) did not send a termination notice on or before July 1, 2009, the IDA cannot be evicted for the period from October 1, 2009 to September 30, 2010, as I read the statute. Rather, if the commission directs, a lease termination notice should be sent to the IDA after January 1, 2010 requiring it to leave the property on or before September 30, 2010.

West's F.S.A. § 83.03

West's Florida Statutes Annotated Currentness  
 Title VI. Civil Practice and Procedure (Chapters 45-89) (Refs & Annos)  
 ☐Chapter 83. Landlord and Tenant (Refs & Annos)  
 ☐Part I. Nonresidential Tenancies  
 ➔**83.03. Termination of tenancy at will; length of notice**

A tenancy at will may be terminated by either party giving notice as follows:

**(1) Where the tenancy is from year to year, by giving not less than 3 months' notice prior to the end of any annual period;**

(2) Where the tenancy is from quarter to quarter, by giving not less than 45 days' notice prior to the end of any quarter;

(3) Where the tenancy is from month to month, by giving not less than 15 days' notice prior to the end of any monthly period; and

(4) Where the tenancy is from week to week, by giving not less than 7 days' notice prior to the end of any weekly period.

CREDIT(S)

12/14/2009

Laws 1905, c. 5441, § 3; Rev.Gen.St.1920, § 3569; Comp.Gen.Laws 1927, § 5433; Laws 1967, c. 67-254, § 34. Amended by Laws 2003, c. 2003-5, § 3, eff. July 1, 2003.

**Derrill L. McAteer, Esq.**



*"We mean business"*

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12/14/2009

PUBLIC SERVICE LEASE

This lease is made and executed this 14<sup>th</sup> day of Dec, 2004, by and between SUMTER COUNTY, FLORIDA 209 N. Fla. St. Bushnell, Fl 33513, (lessor), and SUMTER COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY \_\_\_\_\_ (lessee).

1. DESCRIPTION OF PREMISES. Lessor leases to lessee, and lessee hires from lessor, as herein provided, the premises located near the Sumter County Parks division, the actual site to be identified by a map to be attached hereto.

2. TERM. The term of this lease is to commence upon execution, and expire on September 30, 2005, with automatic one year renewals, subject to being terminated for cause as set forth herein.

3. RENT. There shall be no rent under this lease as lessee is a public body created by lessor.

4. USE OF PREMISES, GENERALLY. The premises are leased to allow lessee to install on said property at its expense a building in which to provide lessee's services to the public. Lessee agrees to restrict their use to such purposes, and not to use, or permit the use of, the premises for any other purpose without first obtaining the consent in writing or lessor, or of lessor's authorized agent.

5. NO USE THAT INCREASES INSURANCE RISK. Lessee shall not use the premises in any manner, even in its use for the purposes for which the premises are leased, that will increase risks covered by insurance on the building where the premises are located, so as to increase the rate of insurance on the premises, or to cause cancellation of any insurance policy covering the building. Lessee further agrees not to keep on the premises, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the premises. Lessee shall comply, at his own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the premises and building.

6. NO WASTE, NUISANCE, OR UNLAWFUL USE. Lessee shall not commit, or allow to be committed, any waste on the premises, create or allow any nuisance to exist on the premises, or use or allow the premises to be used for any unlawful purpose.

7. PAYMENT OF UTILITIES. Lessee shall pay for all utilities furnished building it places on the premises for the term of this lease, including, but not limited to, electricity, gas, water, and telephone service.

8. REPAIRS, MAINTENANCE, AND ALTERATIONS. Lessee, at its expense, shall maintain and keep the premises, including, without limitation, windows, doors, skylights, adjacent sidewalks, and walls, roof, fences, and surrounding land in good repair and in a clean and orderly fashion.

9. PARTIAL DESTRUCTION OF PREMISES. Partial destruction of the leased premises shall not render this lease void or voidable, or terminate it except as herein provided.

If the premises are partially destroyed during the term of this lease, lessee shall have the option of repairing them, when such repairs can be made in conformity with local, state, and federal laws and regulations, and if sufficient funding is available with which to do so. If the repairs cannot be so made within a reasonable time or if insufficient funding is available, lessee has the option to terminate this lease immediately. If lessee does not repair or remove the structure, lessor may terminate this lease and demand that lessee remove any remaining portion of a partially destroyed building.

10. LESSOR'S ENTRY FOR INSPECTION AND MAINTENANCE. Lessor reserves the right to enter on the premises at reasonable times to inspect them, to perform required maintenance and repair. Lessor may, in connection with such alterations, additions, or repairs, erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment without occurring liability to lessee for disturbance of quiet enjoyment of the premises, or loss of occupation thereof.

11. LESSEE'S ASSIGNMENT, SUBLEASE, OR LICENSE FOR OCCUPATION BY OTHER PERSONS. Lessee agrees not to assign or sublease the leased premises, any part thereof, or any right or privilege connected therewith, or to allow any other person, except lessee's agents and employees, to occupy the premises or any part thereof, without first obtaining lessor's written consent. Lessor expressly covenants that such consent shall not be unreasonably or arbitrarily refused. One consent by lessor shall not be a consent to a subsequent assignment, sublease, or occupation by other persons. Lessee's unauthorized assignment, sublease, or license to occupy shall be void, and shall terminate the lease at lessor's option. Lessee's interest in this lease is not assignable by operation of law, nor is any assignment of his interest herein, without lessor's written consent.

12. LESSOR'S REMEDIES ON LESSEE'S BREACH. If lessee breaches this lease, lessor shall have the following remedies in addition to his other rights and remedies in such event:

a. Reentry. Lessor may reenter the premises immediately, and remove all lessee's personal property therefrom. Lessor may store the property in a public warehouse or at another place of his choosing at lessee's expense or to lessee's account.

b. Termination. After reentry, lessor may terminate the lease on giving 10 days' written notice of such termination to lessee. Reentry only, without notice of termination, will not terminate the lease.

13. MANNER OF GIVING NOTICE. Notices given pursuant to the provisions of this lease, or necessary to carry out its provisions, shall be in writing, and delivered personally to the person to whom the notice is to be given, or mailed postage prepaid, addressed to such person. Lessor's address for this purpose shall be as set forth above, or such other address as he may designate to lessee in writing. Notices to lessee may be addressed to lessee at the premises leased.

14. EFFECT OF LESSOR'S WAIVER. Lessor's waiver of breach of one covenant or condition of this lease is not a waiver of breach of others, or of subsequent breach of the one waived.

15. LEASE APPLICABLE TO SUCCESSORS. This lease and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.

16. TIME OF ESSENCE. Time is of the essence of this lease.



Sam Kurpatov  
By: Deputy Clerk

Sam Kurpatov  
Witness

Witness

SUMTER COUNTY, FLORIDA

Jay A Chandler  
By: Joey Chandler Chair

SUMTER COUNTY INDUSTRIAL  
DEVELOPMENT AUTHORITY

Diana Lee  
By: Recording Secretary